

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PERINI/O&G, A JOINT VENTURE,

Plaintiff,

v.

USIMINAS MECÂNICA S.A. and USINAS
SIDESÚRGICAS DE MINAS GERAIS S.A. -
USIMINAS

Defendants.
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Case No. 12 CV 1931 (VB)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, Defendant Usiminas Mecânica S.A. ("UMSA") will move this Court, before the Honorable Vincent L. Briccetti, Courtroom 620, 300 Quarropas Street, White Plains, NY 10601-4150, in accordance with the schedule set forth in Local Civil Rule 6.1 or such other schedule as the Court may direct, for an order:

(a) Pursuant to Local Civil Rule 6.3, granting reconsideration, in part, of the Memorandum Decision dated January 20, 2015 (ECF No. 63), which granted in part, and denied in part, the motion of UMSA to dismiss all claims asserted by Plaintiff Perini Corporation / O&G Industries, Inc., A Joint Venture ("POG"), on the grounds that, by its Decision, the Court made an incorrect legal determination as to POG's breach of contract claim. The legal determination as to which UMSA seeks reconsideration is that the statute of limitations for POG's claim for UMSA's alleged failure to pay "the cost of correcting non-conforming conditions caused by [UMSA]" (hereinafter, the "Remedy Provision") accrued on a date other than delivery of the goods.

(b) Alternatively, in the event the Court does not grant the relief requested in (a) above, then, certifying the Court's Decision for Interlocutory Appeal;

(c) For such other relief as the Court deems just and proper.

Dated: February 3, 2015

AKERMAN LLP

s/ Jeffrey G. Gilmore

By:

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